

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

Claims 1 and 3 have been amended to insert hyphens, as suggested by the Examiner, to improve the readability of the claim. This amendment is voluntarily undertaken to make slight formal changes merely to improve readability. The Office acknowledges in the footnote to page 2 of the office action that the original claims were not indefinite per se. Claim 8 has likewise been amended as suggested by the Examiner to improve the readability of the claim in accordance with his suggestion.

Claim 11 recites the method of claim 1 wherein the fermented mixture is diluted with non-fermented mixture. Applicants submit that the present language should be accepted. In the first line, the mixture spoken of must be fermented. The material mentioned in the second line is unfermented. On page 13 of the specification it is mentioned that the non-fermented mixture may have the same composition as the fermented mixture had prior to fermentation or it may be different. It is submitted that one of ordinary skill would be able to ascertain whether he or she is infringing by adding a non-fermented mixture to the fermented mixture. Therefore, it is requested that the rejection be withdrawn.

Schol et al., US Patent No. 5,308,628 is discussed on page 4 of the present specification. The Office points to no teaching that the pH should be stopped before the fermentation mixture drops below 5.5, as presently recited. This is consistent with the art described in the present specification wherein no problems occur with low pH since the low pH is typical for the type of product at issue (eg. yogurt). Therefore, the cited art does not anticipate or suggest the invention of claim 1. Original claim 2 even further distinguishes by reciting higher pH limitations.

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Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version With Markings To Show Changes Made."

In view of the foregoing, it is respectfully requested that the application, as amended, be allowed.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Please amend claims 1, 3 and 8 as follows:

1. (Amended) A method for preparing a milk-based composition comprising a homopolysaccharide comprising the steps of

(iii) fermenting a mixture comprising milk and a fermentable sugar with a ~~homopolysaccharide-producing~~homopolysaccharide-producing microorganism under anaerobic conditions, and

(iv) stopping the fermentation before the pH of the mixture drops below pH 5.5,

the pH of the mixture being unregulated during fermentation.

3. (Amended) A method according to claim 1 wherein the microorganism is a dextran-~~and/or fructan-producing~~fructan-producing lactic acid bacterium.

8. (Amended) A method according to Claim 1 wherein the mixture is inoculated with beadlets comprising a ~~preculture of~~ the microorganism.